

Publication and naming of a paramedic who is the subject of an order or direction

Policy statement Where Te Kaunihera Manapou Paramedic Council (Te Kaunihera) makes an order or direction in respect of a paramedic, it will consider whether to publish a notice setting out the effect of the order, a summary of the findings and naming the paramedic under section 157(1) of the Health Practitioners Competence Assurance Act 2003 (HPCA Act).

Procedure Purpose of a naming policy

Under the HPCA Act, the role of Te Kaunihera is to protect the health and safety of members of the public by providing for mechanisms to ensure that paramedics are competent and fit to practise their profession.

The purpose of the publication and naming policy as set out under section 157B of the HPCA Act is to enhance public confidence in the paramedic profession and Te Kaunihera disciplinary procedures by providing transparency about its decision-making process, ensuring that paramedics whose conduct has not met expected standards may be named where it is in the public interest to do so and improving the safety and quality of healthcare.

Content of a naming policy

A naming policy must set out the:

- circumstances in which a paramedic may be named
- general principles that will guide Te Kaunihera naming decisions
- criteria Te Kaunihera must apply when making a naming decision
- requirement to have regard to the consequences for the paramedic of being named, including likely harm to the paramedic's reputation
- procedures Te Kaunihera must follow when making a naming decision
- classes of paramedics to whom it applies

Naming policies must be consistent with the law

A naming policy must be consistent with the HPCA Act, the information privacy principles in section 6 of the Privacy Act 1993 and the general law (including natural justice rights).

General principles for all publication and naming notices under the HPCA Act

The naming policy applies to all registered paramedics and former registrants whose name has been removed from the register.

The paramedic may be named when there are public safety reasons to do so. This will be weighed against the practitioner's privacy interests (including interests under the Health Information Privacy Code) and the consequences for the paramedic's reputation.

If Te Kaunihera proposes to name a paramedic, the paramedic will be provided with a reasonable opportunity to make written submissions and be heard on the matter, either personally or by their representative.

Te Kaunihera will consider whether naming a paramedic is required to protect the health and safety of the public, taking into account other disclosure provisions in the HPCA Act requiring an order to be provided to employers and those working in partnership or association with the paramedic.

Publication may be required to provide information to the public so they are able to make informed decisions about their care or treatment, although this is likely to be limited in the provision of paramedicine.

Publication may be necessary to ensure compliance with an order or direction. This could include allowing better monitoring of compliance where there is a high risk of non-engagement or where there is information to believe the risk of the paramedic's practice or conduct posing a risk of harm to the public is increasing or has increased.

Te Kaunihera may decide to publish to a particular group or to a wider audience. Targeted publication may be preferred over general publication unless there are mitigating circumstances. Publication should be tailored to the purpose and audience identified by Te Kaunihera. It should be published with sufficient detail as widely and in such a way as to provide the identified level of information to the identified audience.

If a notice is proposed to be published on a website, Te Kaunihera will also consider whether it should be removed on a certain date or after a set period.

Consideration will always be given as to whether publication may cause harm to a health consumer, complainant or the person who made a notification about a paramedic's health or competence.

Processes and criteria for individual orders

Te Kaunihera makes orders for different purposes under the HPCA Act, and policies have been developed for each of the processes as different criteria will apply.

Registration and issuing of practising certificates

Paramedics who have failed to fulfil or comply with conditions included in their scope of practice under section 27(1)(b) of the HPCA Act may be named. Conditions are included by Te Kaunihera, competence review committees, health committees and the Health Practitioners Disciplinary Tribunal (the Tribunal). Those paramedics will be provided with the opportunity to submit to Te Kaunihera, a competence review committee or health committee on the proposed orders and whether they should be named depending on the reason for the inclusion of conditions.

If the condition has been included by the Tribunal, a decision will be made as to whether the matter is referred to a professional conduct committee to consider whether to lay a charge under section 100(1)(f) of the HPCA Act. Paramedics will have the opportunity to submit to the Tribunal as to whether they are granted name suppression under section 95 of the HPCA Act.

Where a paramedic's registration has been cancelled under section 146 of the HPCA Act on the grounds of making a false or misleading representation or declaration, the paramedic may be named. Those paramedics will be provided with an opportunity to submit on the proposed cancellation and whether they will be named to Te Kaunihera.

Where a paramedic's registration has been cancelled or suspended under section 147 on the grounds that their qualification has been removed or their registration has been cancelled or suspended by an overseas authority, the paramedic may be named. The paramedic will be provided with an opportunity to submit to Te Kaunihera on the proposed cancellation or suspension and whether they will be named.

Competence provisions

A paramedic who is the subject of an order under section 38 of the HPCA Act following a competence review will generally not be named as these orders clearly have a rehabilitation focus, and if conditions have been included in the paramedic's scope of practice, they will appear on the public register and the order will be provided to the paramedic's employer. However, where there are serious public safety concerns, Te Kaunihera will consider naming the practitioner.

Where the rehabilitation of the paramedic is an important factor, the confidentiality of the paramedic may be preserved unless there are public safety factors that support disclosure. Where they have engaged with Te Kaunihera and taken steps to remediate, Te Kaunihera will generally not name them. Those paramedics will be provided with the opportunity to submit to a competence review committee on the proposed orders and whether they should be named.

A paramedic who is the subject of an interim order (inclusion of conditions or suspension of their practising certificate) under section 39 of the HPCA Act may have the order published and be named as there are reasonable grounds for believing that the paramedic poses a risk of harm to the public. There will be a rebuttable presumption in favour of naming. The paramedic will be provided with the opportunity to submit to a competence review committee on the proposed order and whether they should be named and to submit to this committee on whether they will be named if the order is revoked under section 51 of the HPCA Act.

A paramedic who has failed to satisfy the requirements of a competence programme under section 43 of the HPCA Act following a competence review may have the order published and be named. There will be a rebuttable presumption in favour of naming. They will be provided with the opportunity to submit to a competence review committee on the proposed order.

A paramedic who has failed to satisfy the requirements of a recertification programme under section 43 of the HPCA Act may have the order published and be named. There will be a rebuttable presumption in favour of naming. They will be provided with the opportunity to submit to Te Kaunihera on the proposed order.

Health provisions

Paramedics who have mental or physical conditions and are the subject of orders under section 50 of the HPCA Act will generally not be named as these orders clearly have a rehabilitation focus and there are health information privacy principles to consider. If a paramedic has had their registration suspended, their name will not be on the public register and they will not be able to practise. If conditions have been included in the paramedic's scope of practice, they will appear on the public register and the order will be provided to their employer.

A paramedic who is the subject of an interim order under section 48 of the HPCA Act (inclusion of conditions or suspension of their practising certificate) but continues practising or fails to comply with those conditions may be named where there may be reasonable grounds for believing that the paramedic poses a risk of harm to the public.

Te Kaunihera will ensure a practitioner's privacy is appropriately protected when naming to ensure sensitive health information is not disclosed. The paramedic will be provided with the opportunity to submit to a health committee on whether they should be named and to submit to this committee on whether they will be named if the order is revoked under section 51 of the HPCA Act.

A paramedic who has conditions included under section 50 of the HPCA Act or whose registration is suspended under section 50 but fails to comply with those conditions or that suspension may be named. They will be provided with the opportunity to submit to a health committee on the proposed notice.

Discipline provisions

Under the disciplinary provisions of the HPCA Act, paramedics who are the subject of an investigation are not the subject of orders by Te Kaunihera except for interim orders under sections 69 and 69A of the HPCA Act. The Tribunal makes orders following a disciplinary hearing and paramedics are able to make submissions on name suppression at that hearing. Te Kaunihera is limited in its ability to publish interim orders and name paramedics as this may defeat the paramedic's right to apply for name suppression. However, a paramedic who is the subject of an interim order under section 69 of the HPCA Act but fails to comply with the suspension of their practising certificate or conditions included in their scope of practice may be named as there must be reasonable grounds for believing the paramedic poses a risk of harm to the public and the suspension or conditions to protect the public are not being complied with. In this case, public interest may override the paramedic's interests. There will be a rebuttable presumption in favour of naming.

The paramedic will be provided with the opportunity to submit to Te Kaunihera on the proposed order and whether they should be named and to submit to Te Kaunihera on whether they will be named if the order is revoked.

A paramedic who is the subject of an interim order under section 69A of the HPCA Act and continues practising may be named. They will be provided with the opportunity to submit to Te Kaunihera on the proposed order and to submit to Te Kaunihera on whether they will be named if the order is revoked. There will be a rebuttable presumption in favour of naming.

Information that may be disclosed

Under section 157 of the HPCA Act, Te Kaunihera may publish a notice setting out the effect of any order, a summary of any finding it has made and the name of the paramedic. Te Kaunihera will ensure that the notice does not include information that may breach the privacy of any another person, including patients.

The effect of the order will include any conditions or other requirements the paramedic is required to meet. The findings will contain sufficient information to inform the public of the reasons for the decision but will be limited to avoid unnecessary disclosure.

Publication of orders under the health provisions of the HPCA Act must take into account the principles of the Health Information Privacy Code.

Where will publication occur?

In general, publication will be on Te Kaunihera website as this is the most effective method of communication. However, it may use other methods of publication such as the media or more-targeted communication to national or international organisations, groups or individuals where warranted. This may occur if Te Kaunihera is aware that a paramedic continues to practise or is not complying with conditions in their scope of practice with the knowledge that health consumers may not access Te Kaunihera website.

Process for publication and naming

Before publishing an order and naming a paramedic, Te Kaunihera or the relevant committee will provide the paramedic with a draft of the proposed notice, the proposed method of publication, the intended recipients of the notice, the reasons for publishing the order and a reasonable opportunity to submit on the proposal.

The paramedic will be given no less than 10 working days from the date the proposed notice is sent to them to make submissions.

If Te Kaunihera proposes a mode of publication that constitutes continuous publication (such as on a website), Te Kaunihera must identify a date on which that publication will cease.

Appendices	<ol style="list-style-type: none">1. Table of orders that may trigger consideration of naming a paramedic2. Decision flow chart
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References	Health Practitioners Competence Assurance Act 2003 Privacy Act 2020 Health Information Privacy Principles
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Date of approval	Approved by Kaunihera Council during the Akuhata August 2022 Hui – Friday 12 th Akuhata 2022
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Appendix 1: Orders that may trigger consideration of naming a paramedic

HPCA Act section	Description	Process
27(1)(b)	Paramedic has failed to fulfil or comply with condition(s)	Refer to Te Kaunihera, health committee, competence review committee or professional conduct committee
146	Cancellation of registration by Te Kaunihera on grounds of making a false or misleading representation or declaration	Refer to Te Kaunihera
147	Removal of qualification or overseas registration	Refer to competence review committee
38	Competence orders following a review of competence	Refer to competence review committee
39	Inclusion of conditions or suspension of practising certificate pending or following a review of competence	Refer to competence review committee
51	Revoking section 39 orders	Refer to competence review committee
43	Unsatisfactory results of a competence programme	Refer to Te Kaunihera
43	Unsatisfactory results of a recertification programme	Refer to health committee
48	Interim suspension or inclusion of conditions for mental or physical condition	Refer to health committee
51	Revoking section 48 orders	Refer to health committee
50	Restriction imposed in case of inability to perform functions because of mental or physical condition	Refer to health committee
51	Revoking orders under section 50	Refer to health committee
69	Inclusion of conditions or interim suspension of practising certificate or revoking interim orders	Refer to Te Kaunihera
69A	Interim suspension of practising certificate for risk of serious harm or revoking interim suspension	Refer to Te Kaunihera

Appendix 2 - Decision flow chart

